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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,309	05/01/2001	Satoshi Odamura	NEC-F100/USA	2999
21254	7590	11/24/2004	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			VU, VIET DU'Y	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/845,309

Applicant(s)

ODAMURA, SATOSHI

Examiner

Viet Vu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/10/04.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The current title is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

**Art Rejections:**

2. The text of 35 USC 103(a) not cited here can be found in the previous office action.

3. Claims 1, 4-6, 9, 12, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle et al, U.S. pat. No. 6,138,158.

Boyle discloses a mobile terminal for receiving data through wireless communication channels comprising:

a) a main data acquisition part for acquiring main data, e.g., notification message, having written therein information about accompanying data, e.g., update data, attachment, etc., (see col 7, lines 13-48),

b) means for determining/enabling a (wideband) communication channel for receiving the accompanying data written in the notification message (see col 7, lines 48-65).

Boyle does not explicitly disclose a communication channel selection means for selecting between narrowband and wideband channels.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement such channel selection means in Boyle because it would have enabled practicing Boyle's invention (see col 7, lines 45-51).

4. Claims 2-3, 7-8, 10-11, 13-14, 16-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle and further in view of Beyda et al, U.S. pat. No. 6,275,850.

Boyle's teachings are still applied as discussed above. Boyle does not teach selecting the wideband communication channel according to the size of the accompanying data or download time. Beyda discloses a system for processing email attachments. Particularly, Beyda disclose a program to determine whether to download the attachment using the same communication channel for delivering the email depending upon the size of the attachment and/or the estimated downloading time (see Beyda's col 7, lines 5-22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyle with Beyda's teaching because it would have enabled delivering accompanying data to the mobile terminal more effectively, i.e., auto-downloading small attachment via narrowband channel and

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enabling user to manually downloading large attachment via wideband channel (see Boyle's col 8, lines 6-13).

**Response to Amendment:**

5. Applicant's arguments filed on 9/10/04 with respect to claims 1-20 are moot in view of new ground of rejection set forth above.

**Conclusion:**

6. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-305-9600. The Group fax number is 703-872-9306.



**VIET D. VU**  
**PRIMARY EXAMINER**

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11/22/04